

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 33

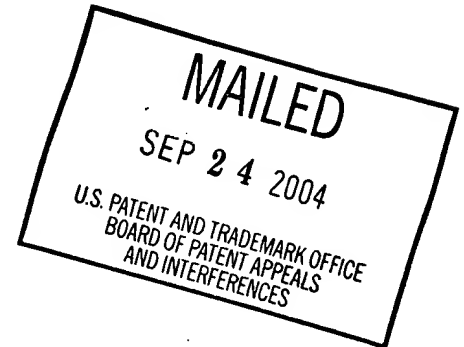
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM DALTON *et al.*

Appeal No. 2004-1925
Application No. 09/543,951

DECISION ON PETITION



On August 18, 2004, Appellants filed a Petition under 37 CFR §1.183 requesting suspension of the 37 CFR §1.194(b) requirement regarding a Request for Oral hearing. The Petition was further accompanied a supporting Declaration. The basis of the Petition was to present reasons why an Oral Hearing was deemed necessary even though Appellants, in “unintentional” oversight, had not filed a request for an Oral Hearing in a separate paper unto itself. Counsel further stated that:


During the substantive prosecution with the Examiner, Applicants emphasized and argued that, as claimed, the invention operates dynamically in the environment of a turbine whereas the primary reference operates statically in the same environment, even though both devices perform essentially the same sealing function under normal operating conditions. It is believed that an oral hearing is desirable, if not essential, for a full and complete appreciation of this argument in light of the rejection, consonant with the admonition in §1.194(a), and that justice requires the opportunity to present this argument orally.

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In the demonstrated need of an Oral Hearing, and in the interest of justice, the Petition is
GRANTED, and

It is further ORDERED that this appeal is to be scheduled for an Oral Hearing in due
course.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

CRAIG R. FEINBERG
Program and Resource Administrator
703-308-9797

Bradley N. Ruben, Esq.
463 First Street, Suite 5A
Hoboken, NJ 07030-1859